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ABSTRACT

This document is intended as a resource guide for teachers to use in helping students to understand how the United States system of government operates. It examines the background, historical application, and current debate concerning the principle of checks and balances. Ten study sheets feature various figures and episodes prominently associated with the origins, development, and operation of the system. The study sheets provide the following features: background material; questions to test student knowledge; and answers to the questions. The topics include: (1) the 17th century English political philosopher John Lock; (2) the 18th century French political theorist Charles Louis Montesquieu; (3) State Governments (1776-1787); (4) "The Constitutional Convention (1787); (5) The Federalist Papers; (6) Marbury v. Madison (1803); (7) Andrew Jackson and the U.S. Bank Veto (1832); (8) Ronald Reagan--The Iran Contra Affair (1986-1987); (9) Reagan-Iran--Contra Affair (1986-1987), Editorial; and (10) Reagan--Iran Contra Affair 1986-1987), Public Opinion. In addition, nine historical examples, ranging from the assumption of war powers by Abraham Lincoln, through Franklin D. Roosevelt's "court packing" proposal, to Richard Nixon and the Watergate affair, are included for discussion. A list of references, a word search puzzle, and a crossword puzzle that tests for knowledge of constitutional checks and balances conclude the document. (DB)

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A LOOK AT CONSTITUTIONAL CHECKS AND BALANCES

Study Sheets for U. S. History

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FOREWORD

These study sheets on "Checks and Balances" were prepared by Nancy Scott, a fine social studies teacher at Franklin High School in Franklin, for use by United States history teachers throughout the state. They were produced in a summer independent study program sponsored by the Frank Porter Graham Fellowship Committee at UNC-Chapel Hill and the Division of Social Studies of the Department of Public Instruction.

We thank the Frank Porter Graham Committee and Ms. Scott for making this publication possible. The fact that the government of the United States has been a stable, well-functioning entity for these many years is partially attributable to the implementation of this innovative concept in government--*checks and balances.*

We trust this publication will be helpful to you as you teach about the United States Constitution and the Federalist Papers.

Bob Etheridge
State Superintendent of Public Instruction

CHECKS AND BALANCES

INTRODUCTION

A basic issue of any government that is trying to be responsive to the people is the question of how much power it should have, and how it should be divided and controlled. This, it seems to me, was the fundamental problem facing the members of the Constitutional Convention in 1787.

The checks and balance system was part of the solution to that problem. For an understanding of how our government operates, it is important to examine the way this system "frustrates" power and attempts to achieve a balance among the three branches.

The framers were attempting to create a guarantee against tyranny - not only from a dictator, but from the "mob." Many feared too much democracy as much as they feared a strong executive.

Only the House of Representatives would be elected directly by the people, (white adult, property-owning males), but it would have the power of the purse. The Senate would be chosen by the state legislatures, (changed in 1913 by Amendment 17), to exercise some control over the "passions" of the lower house. Together, they were given certain enumerated powers, and a clause that allowed for "implied" powers. They were also forbidden certain powers.

The executive, described in Article II, would have certain duties, such as serving as Commander-in-Chief, reporting to Congress, receiving ambassadors, and making treaties and appointments with the advice and consent of the Senate. This power would be determined, to a large extent, as we have seen over time, by the assertiveness and personal qualities of the president..

The Judiciary, described in Article III, was considered by the framers to be the weakest branch. The power to rule on the constitutionality of laws was not specifically given the federal courts in the Constitution; however, this was established in 1803 by the Maroury case and was accepted with little effective challenge.

Any study of the U.S. Constitution is of necessity a study of our history over two hundred years, for it has been an evolving document, changing with society, both formally through amendment, and informally, through interpretation.

The United States of today could not have been foreseen by the writers of the Constitution, and yet the plan of government they hammered out during those Philadelphia summer months has endured longer than any other written constitution - through eight wars, an industrial revolution, economic crises, social upheavals, good times and bad times. It has endured because it is dynamic and flexible.

Perhaps the Englishman, William Gladstone, was correct when he called it "the most wonderful work ever struck off at a given time by the brain and purpose of man." Or as another Englishman, Jame Bryce wrote, "the American Constitution is no exception to the rule that everything which has power to win the obedience and respect of men must have its roots deep in the past and that the more slowly every institution has grown, so much the more enduring it is likely to prove. There is little in the Constitution that is absolutely new. There is much that is as old as the Magna Charta." At any rate, it continues to work in a pluralistic, post-industrial, technologically complex America.

It is the purpose of this study to look at the background, historical application, and current debate concerning the principle of checks and balances. I have attempted to do that by choosing examples that demonstrate this feature philosophically, historically, and currently. The study is obviously incomplete - there are dozens of other examples that are not included. Perhaps some of the ideas and examples used here will prove useful as a springboard to further exploration and research.

My hope is that this will help teachers and students as they seek to understand better how the United States system of government operates.

CHECKS AND BALANCES
Study Sheet # 1

JOHN LOCKE (1632-1704)

John Locke was an English political philosopher whose writing had a profound influence on American government. Locke strongly opposed the absolute power of the monarch, questioned the concept of divine right of kings, and supported the idea of consent of the governed. He wrote in his TWO TREATISES OF GOVERNMENT in the 1690's that man needs government for self-preservation, but if government denies the rights of life, liberty or property, it is unjust. Therefore, according to Locke, there must be a separation between the legislative (law-making) and the executive (law-enforcing) powers of the government.

Excerpts from statements of John Locke found in TWO TREATISES OF GOVERNMENT, ed. by P. Lasbett, Cambridge, 1960.

> 'It may be too great a temptation to humane frailty, apt to grasp at Power, for the same Persons who have the power of making laws, to have also in their hands the power to execute them, whereby they may exempt themselves from Obedience to the Laws they make, and suit the Law, both in its making and execution, to their own advantage.'

> 'the legislative, or supream authority, cannot assume to its self a power to rule by extemporary arbitrary decrees, but is bound to dispense justice, and decide the rights of the subject by promulgated standing laws, and known authoris'd Judges.'

> 'They are to govern by promulgated establish'd Laws, not to be varied in particular cases.'

> 'There can be but one supream power, which is the legislative, to which all the rest are and must be subordinate.'

CHECKS AND BALANCES

QUESTIONS (LOCKE)

Study Sheet # 1

Interpretation:

1. What did Locke mean? Put a check by the statements that you think agree with the excerpts you read.

_____ a. Locke believed most people were uninterested in power.

_____ b. Locke believed law-makers should also be law-enforcers.

_____ c. Locke believed law-makers could become law-breakers without checks on power.

_____ d. According to Locke, the legislature should rule arbitrarily.

_____ e. Locke believed that the same laws should apply to all.

_____ f. Locke believed that separation of law-making and law-enforcing helps check abuses of power.

2. According to John Locke which branch of government has the primary role in government?

3. What does Locke say that is the basis for your answer to question # 2?

CHECKS AND BALANCES

ANSWERS (LOCKE)

Study Sheet # 1

1. _____ a. (No, Locke saw the frailty of human nature to "grasp at power.")

_____ b. (No, Locke said it would be too great a temptation for the same persons who make the laws to also execute them, because "they may exempt themselves from Obedience to the Laws they make.")

_____ c. Yes, again,... "they may exempt themselves from Obedience to the Laws they make, and suit the Law...to their own private advantage."

_____ d. No, Locke says that the legislature "cannot assume to its self a power to rule by...arbitrary degrees, but is bound to dispense justice, and decide the rights of the subject by promulgated standing laws..."

_____ e. Yes, Locke says, "They are to govern by promulgated established laws, not to be varied in particular cases."

_____ f. Yes, this is the main idea of the reading.

2. The legislative; Locke is not saying that it shall be over the other branches, although that is not really clear. Point out to the students that he meant the legislature makes the laws, which comes before enforcing or interpreting.

Students may assume he meant for the legislative branch to be dominant since it would be elected. This is a good insight, but even the U.S. Constitution framers disagreed on that idea.

CHECKS AND BALANCES
Study Sheet # 2

CHARLES LOUIS MONTESQUIEU (1698-1755)

Montesquieu was a French political theorist whose ideas on government influenced the writers of the U.S. Constitution. He admired the British political system with its parliamentary limits on the power of the monarch. He published his DE L'ESPRIT DES LOIS (SPIRIT OF LAWS) in 1748. In it he analyzed different forms of government and the relation between laws of a country and its customs, economics, religion, and climate. Like John Locke, he urged the moderation of the power of the king by the balance and separation of powers in the legislative, executive, and judicial branches of government.

Excerpts from DE L'ESPRIT DES LOIS, ed. J. Brette de la Gressaye, Paris, 1950. Translated by Thomas Nugent.

"...people...being always in ferment, are more easily conducted by their passions than by reason, which never produced any great effect in the mind of man...Constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go."

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty...Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end to everything, were the same man, or the same body, whether of nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."

"...Here, then, is the fundamental constitution of the government we are treating of. The legislative body being composed of two parts, they check one another by the mutual privilege of rejecting. They are both restrained by the executive power, as the executive is by the legislative."

CHECKS AND BALANCES

QUESTIONS (MONTESQUIEU)

Study Sheet # 2

1. From the excerpt quoted from his SPIRIT OF LAWS what can you conclude about Montesquieu's view of man?

2. According to Montesquieu, how must the government be structured for the people to maintain liberty?

3. If legislative power and judicial power are joined, what happens to the lives and liberties of the people?

4. Define 'arbitrary'

5. According to Montesquieu, why is a bicameral legislature better than a single law-making body?

6. What do you think is the basic reason for Montesquieu's proposal of separation of powers and mutual checks?

7. Do you agree with his idea of the nature of mankind? Why or why not? Give at least three examples to back up your point of view.

CHECKS AND BALANCES

ANSWERS (MONTESQUIEU)

Study Sheet # 2

1. The students should infer that Montesquieu believed that man has a tendency to follow passions instead of reason and to abuse power rather than exercise self-restraint.

   This would agree with Lord Acton's later statement that "power corrupts and absolute power corrupts absolutely." There is a good possibility for discussion here.

2. The powers among the three branches should be separated.

3. "the life and liberty of the subject would be exposed to arbitrary control."

4. Based on random choice or impulse; despotic, unrestrained.

5. They check each other; both must approve laws.

6. The students should infer that the concept of separation of powers is to prevent too much power from belonging to any individual or group. The checks are a further safeguard against abuse.

7. This is open to discussion, but it is important that students back up their viewpoint with concrete examples.

CHECKS AND BALANCES

STATE GOVERNMENTS (1776-1787)

Study Sheet # 3

In reaction to their increasing dissatisfaction with colonial government under the leadership of the royal governors and the trade restrictions and tax laws passed by the English Parliament (in which they had no voice), the American colonists took up arms against the British forces in April 1775. By the summer of 1776 the thirteen states began rewriting their constitutions, reflecting their distrust of executive power.

In Williamsburg a convention declared that the people of Virginia ordain that "the legislative, executive, and judiciary departments shall be separate and distinct."

John Adams in Massachusetts had written a year earlier that "A legislative, an executive, and a judicial power comprehend the whole of what is meant and understood by government. It is by balancing each of these powers against the other two, that the efforts in human nature towards tyranny can alone be checked and restrained."

The fear of executive tyranny led most of the states to provide for the election of the governors by the legislature and then only for a one-year term.

In 1781 Thomas Jefferson, in his NOTES ON THE STATE OF VIRGINIA, said that the purpose of the patriots of Virginia had been to create a new system of government in which the powers should be so divided and balanced "as that no one could transcend their legal limits, without being checked and restrained by the others."

In actuality, however, there were few or no checks on the state legislatures and they exercised power with little limitation. The North Carolina constitution, for example, declared "that the legislative, executive, and supreme judicial powers of government ought to be forever separate and distinct from each other," but allowed the legislature to appoint all members of the executive department and the state supreme court!

CHECKS AND BALANCES

QUESTIONS (STATE GOVERNMENTS)

Study Sheet # 3

1. From your reading about the Revolutionary period of American history, what were the main reasons for the Americans' declaring their independence from Great Britain?

2. What tyranny did most of the state governments fear and want to guard against in 1776? Why was this so?

3. During the Revolutionary period (1775-1783), which branch of government in the states (and nation under the Articles of Confederation) emerged as dominant? What were the reasons for this?

4. Under the new North Carolina state constitution of 1776, which branch of government was dominant? How?

5. Give proof from the reading that John Adams and Thomas Jefferson would have approved or disapproved of the way the North Carolina government was operating in the 1780's?

CHECKS AND BALANCES

ANSWERS (STATE GOVERNMENTS)

Study Sheet # 3

1. Some likely answers: Taxation without representation in Parliament, restrictions on settlement, trade restrictions (navigation acts), resentment of British soldiers in colonies enforcing British laws, resentment of the royal governors.

2. The colonists feared executive tyranny; they did not want to give their state governors much power and did not even have a national executive under the Articles of Confederation. Their colonial experience with the royal governors and with King George III made they wary of placing power in the hands of a single person.

3. The legislative, because it was elected by the people (that is, the white male property-owners) and they had more direct control over it. Again, their earlier experience with the King and the royal governors made them restrict executive power.

4. The N.C. legislature had the power to appoint the governor and his assistants as well as the members of the state supreme court.

5. No, both men proposed a balanced government with checks on the power of each branch.

CHECKS AND BALANCES

THE CONSTITUTIONAL CONVENTION (1787)

Study Sheet # 4

The men who gathered in Philadelphia in the summer of 1787 to revise the Articles of Confederation were rich in political experience, legal training, and accomplishment. Most were from established families and were representative of planters, merchants, and lawyers; the class of men who composed the leadership of the individual states and the national Congress. They were well versed in 18th century theories of natural law and ascribed to the British idea of limited government. They combined reason and experience to support such ideas as human liberty, government by consent of the governed, and checked and balanced power.

The convention delegates represented a wide range of opinion on such matters as the degree of democracy that should exist in a large republic, the amount of power of the national versus state governments, the basis of representation in Congress, the question of slavery, and the separation of powers among the three branches.

The discussion of separation of powers and checks and balances came up early during the convention. (June 1-5) Some delegates wanted checks on the powers of the popularly elected House by requiring the Senate to be chosen indirectly. (Thus, until the 17th Amendment was added in 1913, senators were elected by the state legislatures.) Most of the delegates also wanted the chief executive to be elected indirectly. (Thus, they devised the somewhat complicated electoral college system that prevented the direct popular election of the president.) Also, most of the delegates wanted the executive to have the power to veto legislation passed by the people's representatives in the Congress.

Other checks were included later during the summer as discussion continued and various degrees of consensus were reached.

CHECKS AND BALANCES

THE CONSTITUTIONAL CONVENTION (1787)

Study Sheet # 4 (continued)

The following are some of the powers and checks on power by each of the three branches on the others.

Powers and checks by the legislative branch include the following:

Congress has the power to make laws.
Congress appropriates money for all departments.
Congress can override the president's veto with a 2/3 majority of both houses.
Congress creates the federal courts.
Congress proposes constitutional amendments. (The state can initiate amendments, also.)
Congress has the power to impeach.
The Senate has the power to confirm or reject appointments to office by the president.
The Senate has the power to ratify or reject treaties negotiated by the executive branch.

Powers and checks by the executive branch include the following:

The President may propose laws to be passed by Congress.
The President may recommend appointments in the executive and judicial branches.
The President is Commander-in Chief of the armed forces.
The President negotiates treaties with other nations.
The President has the power to grant pardons.

Powers and checks by the judicial branch include the following:

Members of the federal courts are appointed "for life." (Once appointed by the President and confirmed by the Senate, judges can be independent and not subject to political influence.)
The federal courts can review federal laws and executive actions through court decisions; that is, interpret the law.
(This power is not specifically stated in the Constitution, but was assumed by many of the national leaders to belong to the judiciary and was first exercised in the landmark case of MARBURY V MADISON in 1803.)

CHECKS AND BALANCES

QUESTIONS (THE CONSTITUTIONAL CONVENTION)

Study Sheet # 4

1. What elements of American society of 1787 were most represented at the Constitutional Convention in Philadelphia?

2. What were some of the issued on which the representatives disagreed?

3. After the American colonists' strong opposition to the King and the royal governors, why do you suppose a majority of the delegates favored an executive veto as a check on Congress? (Note: Most state constitutions had been in effect for a decade.)

4. Make a chart depicting the organization checks and balances in the federal government.

CHECKS AND BALANCES

ANSWERS (THE CONSTITUTIONAL CONVENTION)

Study Sheet # 4

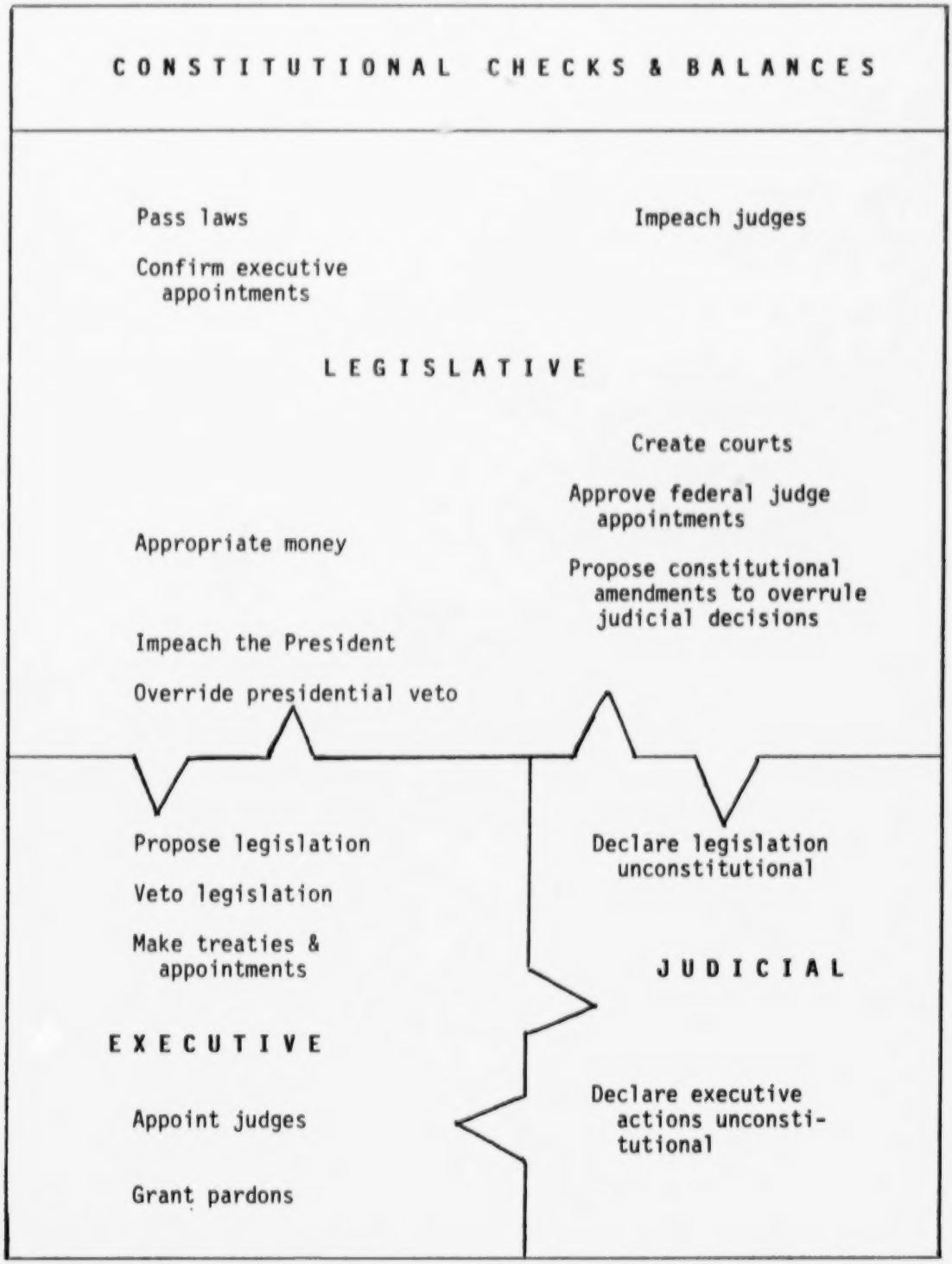
1. The majority of representatives were from the planter, merchant, and lawyer class. Small landowners, shopkeepers, artisans, craftsmen, laboring classes were not represented. (The delegates were chosen by the state legislatures or state conventions. Some property ownership was required to vote.)

2. The delegates had many disagreements. Some of them included the question of the basis of representation in Congress, the question of national power versus state power, the question of slavery, the question of balance of power among the three branches of government.

3. The state governments during and after the Revolution had put most power in the hands of legislatures. This had not always proved to work well. (Shays Rebellion) Also, the Articles of Confederation did not provide for an executive, and there were definite problems with it. The revolutionaries of '76 had been tempered by the experience of the past ten years, and most were willing to give some power to an executive.

4. The charts should indicate the checks of each branch on the others.

   Suggestion: Checks and balances could then be written on strips of paper or index cards and distributed to small groups. Their job would be to find historical or current examples and explain how the check has worked or not in various situations. Each group could then report their findings to the whole class. A chart which summarizes their findings could be constructed to be displayed in the classroom, or each student could add examples to his/her own chart.


CONSTITUTIONAL CHECKS & BALANCES
Pass laws
Confirm executive appointments
Impeach judges
LEGISLATIVE
Create courts
Approve federal judge appointments
Appropriate money
Propose constitutional amendments to overrule judicial decisions
Impeach the President
Override presidential veto
Propose legislation
Veto legislation
Make treaties & appointments
EXECUTIVE
Appoint judges
Grant pardons
Declare legislation unconstitutional
JUDICIAL
Declare executive actions unconstitutional

CHECKS AND BALANCES
Study Sheet # 5

THE FEDERALIST PAPERS

After the signing of the Constitution on September 17, 1787, most of the delegates returned home to work for its ratification by the states.

Three men, James Madison, Alexander Hamilton, and John Jay, wrote a series of essays for the New York newspapers explaining the Constitution to the readers and attempting to persuade the state conventions to approve it. These writings provide an excellent commentary on how the new government would in fact work.

At the same time there was opposition to the Constitution by those who feared a strong national government and who objected to the absence of a bill of rights. (The Bill of Rights, first ten amendments, would be added in 1791, after ratification by the necessary nine states.) George Mason of Virginia, Elbridge Gerry of Massachusetts, and Robert Yates of New York formed the core of these "anti-federalists" who wrote their essays opposing ratification. (All three men had been delegates to the Convention, but did not sign the final document.)

The following are brief excerpts from selected Federalist and Anti-Federalist papers concerning separation of powers and checks and balances.

THE FEDERALIST #9 - Alexander Hamilton

"...The regular distribution of power into distinct departments - the introduction of legislative balances and checks - the institution of courts composed of judges, holding their offices during good behaviour - the rrepresentation of the people in the legislature by deputies of their own election...are means, and powerful means, by which the excellencies of republican government may be retained and its imperfections lessened or avoided."

CHECKS AND BALANCES
Study Sheet # 5 (continued)

"OBJECTION TO THE CONSTITUTION OF GOVERNMENT FORMED BY THE CONVENTION" - George Mason

"...In the House of Representatives there is not the substance, but the shadow only of representation; which can never produce proper information in the legislature, or inspire confidence in the people...The Senate has the power of altering all money bills...altho' they are not the representatives of the people, or amenable to them...

...The Judiciary of the United States is so constructed...as to absorb and destroy the Judiciaries of the several states; thereby...enabling the rich to oppress and ruin the poor.

...The President of the United States has no constitutional Council and he will therefore be unsupported by proper information and advice; and will generally be directed by minions and favorites - or he will become a tool to the Senate - or a Council of State will grow out of the principal officers of the great Departments; the worst and most dangerous of all...for they may be induced to join in any dangerous or oppressive measures, to shelter themselves, and prevent an inquiry into their own misconduct in office...

...The President of the United States has the unrestrained power of granting pardon for treason; which may be sometimes exercised to screen from punishment those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt."

THE FEDERALIST #51 - James Madison

"...Ambition must be made to counteract ambition. The interest of the man must be connecte3d with the constitutional rights of the place. It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

This policy of supplying by opposite and rival interest...[is] displayed in all the subordinate distributions of power; where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other; that the private interest of every individual, may be centinel over the public rights...

...in a republican government the legislative authority, necessarily, predominates..."

CHECKS AND BALANCES
Study Sheet # 5 (continued)

LETTER FROM THE FEDERALIST FARMER - John Yates
(ANTI-FEDERALIST)

"...But when we examine the powers of the president...we shall perceive that the general government...will have a strong tendency to aristocracy, or the government of the few. The executive...may always act with the senate, but never can effectually counteract its views: The president can appoint no officer...who shall not be agreeable to the senate; and the presumption is, that the will of so important a body will not be very easily controlled...

...The plan does not present a well balanced government. The senatorial branch of the legislative and the executive are substantially united, and the president may aid the senatorial interest...The excellency...of a well-balanced government is that it consists of distinct branches, each sufficiently strong and independent to keep its own station, and to aid either of the other branches...

THE FEDERALIST #62 - James Madison

"...a senate, as a second branch of the legislative assembly, distinct from, and dividing the power with, a first, must be in all cases a salutary check on the government. It doubles the security to the people, by requiring the concurrence of two distinct bodies...where the ambition or corruption of one, would otherwise be sufficient...No law or resolution can now be passed without the concurrence first of a majority of the people, and then of a majority of the states."

CHECKS AND BALANCES
Study Sheet # 5 (continued)

THE FEDERALIST #78 - Alexander Hamilton

"...Whoever attentively considers the different departments of power must perceive, that in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary on the contrary has no influence over either the sword or the purse...It may truly be said to have neither force or will, but merely judgment.

...It proves...that the judiciary is beyond comparison the weakest of the three departments of power.

...The complete independence of the courts of justice is pecularly essential in a limited constitution. By a limited constitution I understand one which contains certain specified exceptions to the legislative authority; such for instance as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts...whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void.

...No legislative act therefore contrary to the constitution can be valid...

...A constitution is in fact, and must be, regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two...the constitution ought to be preferred to the statute.

CHECKS AND BALANCES

SUGGESTIONS AND QUESTIONS (FEDERALIST AND ANTI-FEDERALIST PAPERS)

Study Sheet # 5

Understanding of these readings from Federalist and anti-Federalist points of view may be difficult for some students to discern without help.

All or part of each might be assigned to individuals or small groups to be read and then explained to the whole class. It is important, I think, to discuss the reasons of both sides for either supporting or rejecting the Constitution. (Make sure students are aware that there were many other issues debated during the months before ratification besides separation of powers and checks and balances.)

The following are some questions that could be raised:

1. According to Hamilton in Federalist #9, what is the main feature of a republican government? (Division of power into separate branches.)

   What fear do you think he was addressing in the excerpt? (Since he mentions the checks provided by the legislature and the courts, he is probably trying to reassure those who feared a strong executive.)

2. What fear does George Mason express in the first paragraph of the selection from his "Objections..."?

   (That all the people will not be represented in the House; and that the Senate, elected by the state legislatures and therefore not directly representative of the people, can change all money (tax) bills, thereby denying the wishes of the people.)

   What reservation does Mason have about the judicial branch?

   (That it will destroy the state courts; that the poor will be oppressed by the rich.)

   What does Mason fear about the executive branch?

   (That it will be under the influence of the president's political favorites, or that it will become a tool of the Senate, or that the department heads will rule, [fear of oligarchy or aristocracy.] Also, he says that the President's power to pardon gives him too much power - power to protect unlawful acts within his own branch.)

CHECKS AND BALANCES

SUGGESTIONS AND QUESTIONS (FEDERALIST AND ANTI-FEDERALIST PAPERS)

Study Sheet # 5 (continued)

3. In Federalist #51 what does Madison say about the nature of man?

   (Men are not angels, but tend to be ambitious [for power], and therefore controls by and over government are necessary.)

   What does Madison say is the primary control over the government?

   (The people)

   According to Madison why are other precautions necessary?

   (Because of the nature of man, ambitious for power.)

   What are these precautions?

   (Separated or divided power within government)

   According to Madison, which branch dominates in a republican government?

   (The legislative)

4. According to Robert Yates in this excerpt from the Federalist Farmer, which group within government will likely predominate?

   (Yates believes that the Senate will dominate, thereby acting as an aristocracy.)

   What Senatorial "check" does he cite as evidence?

   (The President can appoint no one without the Senate's approval.)

   In Yates view, how will the separation of powers be undermined?

   (Yates sees the Senate and President uniting to upset the balance of powers.)

5. In Federalist #62 Madison argues that the two legislative chambers will act as a check on each other. Explain what he means.

   (Another check on government power - both houses must approve any legislation; thus, each can check the impulses of the other.)

6. Which branch does Hamilton, in Federalist #78, argue is the least powerful ? Why?

   (The judicial; it has neither force or will, but judgment.)

CHECKS AND BALANCES

SUGGESTIONS AND QUESTIONS (FEDERALIST AND ANTI-FEDERALIST PAPERS)

Study Sheet # 5 (continued)

6. What do the other two branches have that gives them more power?

(The President has the "sword", i.e., command of the armies; the Congress has the power of the "purse", i.e., the power to raise and appropriate funds for any government purpose.)

What did Hamilton mean by "limited" government?

(The Constitution specifically states limits on legislative power. [See Article I, Section 9])

How can these limits be assured by the federal courts?

(Madison states the courts have the duty to declare acts contrary to the Constitution void.)

What is fundamental law?

(The Constitution)

What happens if there is a conflict between the Constitution and laws passed by Congress?

(The Constitution should be upheld. It expresses the intention of the people. Statutes, or laws by Congress express the intention of elected representatives.)

What power does Hamilton assume for the judiciary in this excerpt?

(The power of judicial review, which is not stated directly in the Constitution.)

These various viewpoints could lead to a discussion of who has been right about what, particularly in regard to powers of the judicial and executive branches in recent years. Were the anti-Federalist fears warranted or have the checks and balances worked? Is Hamilton right about the "weak" judicial branch? Does the U.S. President have too much power, or not enough? The issues presented appear again and again in U.S. history, right up to the present; i.e., Iran/Contra affair and investigation; the nomination of Robert Bork as Supreme Court justice.

CHECKS AND BALANCES
Study Sheet # 6

MARBURY vs MADISON (1803)

The power of judicial review was established in 1803 in the famous case of MARBURY vs MADISON. Chief Justice John Marshall, an ardent Federalist, decided to hear the case in hopes of raising the flagging prestige of the "weakest" branch of the government, the Supreme Court. The case itself was basically political. President John Adams had appointed forty-two Federalist justices of the peace for the District of Columbia in the last hours of his administration, March 3, 1801. John Marshall, out-going Secretary of State and newly appointed Chief Justice, failed to deliver all the commissions before the new Secretary of State, James Madison, took office.

Following the wishes of President Thomas Jefferson, Secretary Madison refused to deliver the commissions. One of the appointees, William Marbury, petitioned the Supreme Court for a writ of mandamus to force Madison to deliver his commission. (A mandamus is granted by the courts to compel an officer or corporation to perform a particular duty required by law.)

Chief Justice Marshall wanted to avoid a clash with the executive department. He was sure Madison would ignore an order from the Court to deliver the commission, and the prestige of the Supreme Court would suffer even further damage.

The law cited by Marbury was Section 13 of the Judicial Act of 1789, which stated that the Supreme Court could issue writs of mandamus. Marshall reasoned that this law increased the original jurisdiction of the Supreme Court beyond what was stipulated in Article III of the Constitution. According to the Constitution, the Supreme Court has original jurisdiction in only two kinds of cases - those "affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party." The Supreme Court did not have the power to issue a writ of mandamus because Marbury's suit did not fall into either category. Since there was a contradiction between the law and the Constitution, the Supreme Court had a duty to uphold the higher law and declare the legislative act null and void.

This decision, emerging from rather trivial circumstances, became the landmark case establishing the power of the federal courts to exercise a check over the actions of the legislative and executive branches.

The idea of judicial review was not a novel invention. It had been discussed during the Constitutional Convention, and in fact, inferred by many to be part of the powers of the federal judiciary, although not specifically stated in the Constitution.

CHECKS AND BALANCES
Study Sheet # 6

MARBURY vs MADISON (1803) (continued)

The American people have generally supported the practice of judicial review, in part because of the Court's wise use of this great power. The Court has placed limitations on itself in exercising review of laws by its refusal to decide Constitutional questions unless absolutely necessary to a particular case.

All cases that the Supreme Court considers must involved a real conflict of rights and interests between parties. The Court cannot initiate a review of laws; it must wait until someone has a justifiable case.

Interestingly, the Court has declared fewer than one hundred federal laws unconstitutional since 1803. The ruling of the federal courts on the constitutionality of a law is followed by the executive and legislative branches, but it can be overruled by formal amendment to the Constitution.

CHECKS AND BALANCES

QUESTIONS (MARBURY vs MADISON)

Study Sheet # 6

1. What was William Marbury's complaint?

2. What role did he ask the Supreme Court to play?

3. Who was John Marshall?

   What two Presidents were involved?

   Who was the new Secretary of State?

4. What does the Constitution say about the original jurisdiction of the Supreme Court?

5. What has been the impact of the decision in MARBURY vs MADISON?

CHECKS AND BALANCES

ANSWERS (MARBURY vs MADISON)

Study Sheet # 6

1. William Marbury had been appointed to the position of justice of the peace in the District of Columbia by President John Adams in the last hours of his presidency. The commission had not been delivered by the Secretary of State, John Marshall, or the new Secretary of State, James Madison. Marbury wanted his commission.

2. Marbury wanted the Supreme Court to issue a writ of mandamus to force Secretary of State Madison to deliver the commission.

3. John Marshall was the new Chief Justice of the Supreme Court, appointed by John Adams. (Marshall had been Secretary of State during Adams' administration.)

   Federalist President John Adams and the new Democrat-Republican President, Thomas Jefferson.

   Jefferson's Secretary of State was James Madison.

4. The Supreme Court has original jurisdiction in two kinds of cases - those involving ambassadors and consults, those involving one or more states. There is nothing in the Constitution about the Supreme Court's power to issue writs of mandamus.

5. The significance of the Marbury case is the establishment of judicial review by the Supreme Court, which gives this branch an important check on both the executive and legislative.

CHECKS AND BALANCES

ANDREW JACKSON AND THE U.S. BANK VETO (1832)

Study Sheet # 7

President Andrew Jackson's veto of the charter of the U.S. Bank in 1832 provides an example of how the President can effectively use this constitutional check on the power of Congress.

As a frontiersman Jackson saw the national bank as a barrier to easy credit for farmers and as a block to the growth of newly developing business interests in the South and West.

The first Bank of the United States had been established during President Washington's administration with the strong support of Alexander Hamilton, Washington's Secretary of Treasury. Its establishment had been just as strongly opposed by Secretary of State Thomas Jefferson, who claimed there was nothing in the Constitution that provided for the establishment of a national bank. The Federalists claimed that the "necessary and proper" clause, (Article I, Section 8, Clause 18) allowed for its establishment by Congress, thereby, supporting a "broad" interpretation of the powers of Congress.

The U.S. Bank had been recharted in 1816, chiefly due to the need for financial order after the War of 1812.

The Bank of the U.S. acted as a regulator of currency and of bank lending in general. Supporters of the Bank represented, for the most part, the established financial interests of the northeast. They were mainly conservative businessmen, such as John Jacob Astor and Stephen Girard. As stockholders in the Bank, these businessmen say the Bank as a source of profits as well as a national regulator of currency.

Members of Congress who opposed Jackson decided to pass the bill for recharter of the Bank in 1832, four years before its charter expired. By seeking the recharter early, Henry Clay and other Jackson opponents hoped to embarrass Jackson politically by forcing him to take a stand for or against the Bank.

Jackson, ever ready for a good fight, exclaimed, "The Bank...is trying to kill me, but I will kill it!" He saw an opportunity for an attach "by democracy on the money power" and proceeded to veto the recharter bill. In his veto message of July 10, 1832, he said,

CHECKS AND BALANCES

ANDREW JACKSON AND THE U.S. BANK VETO (1832)

Study Sheet # 7 (continued)

"But when the laws undertake to add to these natural and just advantages artificial distinction...to make the rich richer and the potent more powerful, the humble members of society - the farmers, mechanics, and laborers - who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their government."

He argued that the U.S. Bank was unconstitutional because it acted as a monopoly and could not be taxed by the states in which it had branch offices. (See McCULLOCH vs MARYLAND, 1819).

In Congress, Henry Clay and Daniel Webster railed against "King Andrew," and public opinion was divided. The press largely supported the Bank, the business community was divided, and the farmers supported Jackson. The November presidential election convinced Jackson he had taken the right action, or at least the more popular action. He won overwhelmingly with 219 electoral votes to Clay's 49.

Under bank president Nicholas Biddle, the Bank of the U.S. continued to exist until its charter expired in 1836. However, Jackson had federal accounts deposited in state "pet" banks, thus weakening the influence of the central bank. In 1836, Biddle had the Bank rechartered as a Pennsylvania state bank.

In 1837 there was a financial panic and the beginning of a serious economic depression. Jackson's opponents blamed his destruction of the U.S. Bank for the country's economic woes. Since the depression was world-wide, it is doubtful the U.S. Bank could have prevented the crisis, but it can be argued that it could have curbed the wild speculation and inflation, and tempered the amount of suffering that resulted.

CHECKS AND BALANCES

QUESTIONS (JACKSON AND THE U.S. BANK VETO, 1832)

Study Sheet # 7

1. Why did Andrew Jackson oppose the national bank?

2. When the first U.S. Bank had been established in 1791, who had supported it and who had opposed it? What was the argument of each? (Refer to your text for more information.)

3. How did the national bank affect the U.S. economy?

4. What groups supported and which opposed the U.S. Bank in 1832?

5. Jackson depicted the battle against the Bank as _____ against _____.

6. In Jackson's veto message, who is he attacking and who is he defending?

CHECKS AND BALANCES

QUESTIONS (JACKSON AND THE U.S. BANK VETO, 1832) (continued)

Study Sheet # 7

7. What convinced Jackson that he had wide support for his veto of the Bank?

8. According to the reading, how did Jackson's action affect the economy?

9. From 1789 through 1981 there have been 2,391 presidential vetoes of laws passed by Congress. Seventy-five of those vetoes were overridden by Congress.

   Do you think the veto power gives the President too much Power? Explain.

   President Reagan wants to be able to use an item veto for budget bills.

   What is this?

   Do you think it would be a good thing or not? Why?

   Do you think it would increase the President's power? Why or why not?

CHECKS AND BALANCES

ANSWERS (JACKSON AND THE U.S. BANK VETO, 1832)

Study Sheet # 7

1. Jackson saw the national bank as a barrier to easy credit for farmers and small businessmen of the South and the West.

2. Alexander Hamilton as Secretary Treasury had proposed the National Bank as a regulator of currency. defended its constitutionality by supporting the exercise of the broad powers of the Congress through the elastic clause, which says that Congress can "make all laws which shall be necessary and proper for carrying into execution the foregoing powers..."

   Thomas Jefferson, on the other hand, argued that Congress did not have the power to establish a national bank because it was not expressly given by the Constitution. He opposed the broad interpretation, but later used it himself to purchase the vast Louisiana Territory from France.

3. The Bank, as a regulator of currency and lending, acted as a safeguard against wild swings in inflation and excessive speculation.

4. The conservative money interests of the northeast tended to support the Bank. The farmers and newly developing businessmen of the South and West opposed the Bank because of its restrictions on lending.

5. Jackson depicted the battle against the Bank as democracy against money power.

6. Jackson is defending the common people - the farmers, mechanics, and laborers - against the "rich and powerful."

7. Jackson was overwhelmingly re-elected in the November election of 1832.

8. By vetoing the Bank, Jackson removed any regulation of the national economy and the degree of the depression of 1837 was increased. The absence of the Banks's "hard" money policies resulted in wider swings of the economy, more speculation and higher inflation.

9. Open to discussion.

CHECKS AND BALANCES

HISTORICAL EXAMPLES

OUTLINE

This brief outline of historical examples that follows composes a very incomplete list of situations in which checks and balances have worked, or failed to work, in our national government. They are presented to serve as a starting point for more in-depth study and as pivots for discussion by students and teachers. As the constitutional forms of checks amond the three branches are applied, or not applied, as the case may be, I think it is increasingly evident that the media and public opinion act as informal, but often very effective, checks on governmental power.

ABRAHAM LINCOLN - WAR POWERS - 1861

Assumption of war powers in spring of 1861, after southern states had seceded:

Congress not in session
Question of re-supplying federal forts in the South
Question of raising army
Question of blockading Confederate forts

Lincoln acted on all three; Congress ratified action after the fact.

Lincoln also suspended the writ of habeas corpus in Maryland, because of the threat posed by the numerous Confederate sympathisers. (The provision for the suspension of habeas corpus in cases of rebellion or invasion is in Article I, Section 9, rathern than Article II, suggesting it is a Congressional power rather than an executive.)

Lincoln: "I felt that measures otherwise unconstitutional might become lawful by becoming indispensable to the preservation of the Constitution."

The Supreme Court of 1863: "If war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force, by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority..."

CHECKS AND BALANCES

HISTORICAL EXAMPLES (continued)

ANDREW JOHNSON - IMPEACHMENT - 1868

Some questions raised:

Was Johnson impeached for political reasons? How important was the obvious personality conflict between Johnson and the Radicals in Congress?

Were charges against Johnson based on constitutional questions? (Violation of the Tenure of Office Act).

Was the impeachment of Johnson a power-grab by Congress?

What effect on the balance of powers would a conviction have had? (Conviction was missed by only one vote in the Senate.)

THEODORE ROOSEVELT - FOREIGN AFFAIRS - 1905

President Roosevelt had made an agreement with Santo Domingo in 1905 that the United States would use military force to protect local customs houses.

Roosevelt: "The Constitution did not explicitly give me power to bring about the necessary agreement with Santo Domingo. But the Constitution did not forbid my doing what I did. I put the agreement into effect, and I continued its execution for two years before the Senate acted; and I would have continued it until the end of my term, if necessary, without any action by Congress."

Teddy Roosevelt also sent the U.S. Navy's Great White Fleet around the world (to flex American muscle?) against the wishes of Congress. Congress was forced then to vote funds to bring the ships back!

Roosevelt's assumption of power is fairly typical of strong presidents. He was not afraid to take action, as long as the Constitution did not explicitly forbid it. What do the students think of this interpretation of the President's power? Which other presidents have used it?

CHECKS AND BALANCES

HISTORICAL EXAMPLES (continued)

WOODROW WILSON - TREATY OF VERSAILLES - 1919

Refusal of Senate to ratify peace treaties after World War I:

Failure of politics and compromise?
President Wilson refused to work with the Senate.
Senate feared the the League of Nations would force U.S. foreign involvement.
Neither President or Senate willing to compromise.

Problem of arrogance, self-righteousness, stubbornness?

Effect on the Presidency?

Effect on the power of Congress?

Effect on events of the 20's and 30's?

FRANKLIN D. ROOSEVELT - "COURT PACKING" - 1936

FDR proposed New Deal programs to bring relief from the Great Depression and to regulate the economy.

The democratic majority in Congress passed unprecedented legislation.

Constitutional questions were raised about certain programs. The Supreme Court struck down some of the New Deal programs (NRA,AAA) as unconstitutional.

FDR proposed to increase the number of Supreme Court justices from nine up to fifteen. (Supreme Court was composed of four conservatives, three moderates/liberals, and two swing votes. Usual decisions ended in a 5 to 4 vote.)

FDR's proposal also was unprecedented. He proposed that when a judge reached the age of 70, if he had served on the Court for at least 10 years, the president could appoint a new judge.

Was this an example of executive power-grab?

Congress voted his "court packing" proposal down.

Effect of action? Fragmented the Democratic party? Made the Supreme Court more sensitive to the executive?

CHECKS AND BALANCES

HISTORICAL EXAMPLES (continued)

HARRY TRUMAN - STEEL SEIZURE CASE - 1951

Question of Presidential "emergency" and "lawmaking" powers:

Dispute between management and unionized employees of U.S. steel mills led to a nation-wide strike.

Truman believed that the need for steel for the national defense (Korean War) made it necessary for him to act. Truman directed his Secretary of Commerce to take over and operate most of the steel mills.

In the court case, YOUNGSTOWN SHEET AND TUBE COMPANY vs SAWYER, the Supreme Court ruled that "The Founders of this nation entrusted the lawmaking power to the Congress alone...this seizure order cannot stand."

QUESTIONS:

Was it a national emergency? Who decides?

Did the strike endanger the nation?

Was there another solution to the strike?

Did Truman exceed his powers?

Could Congress have passed a law to accomplish the same thing?

Would the Court have upheld the same action by Congress?

JOHN F. KENNEDY - CUBAN MISSILE CRISIS - 1962

Unites States U-2 planes had taken convincing photos showing construction of missile bases in Cuba. The photos also revealed presence of nuclear missiles, delivered to Cuba by the Soviet Union.

JFK contemplated the possiblity of a U.S. airstrike against Cuba; he rejected the idea because of the risk of Soviet retaliation. JFK announced a quarantine or blockade against Cuba.

The photographs convinced U.S. allies that the U.S. was acting on evidence. The Soviet Prime Minister, Nikita Krushchev, ordered the missiles removed from Cuba.

CHECKS AND BALANCES

JOHN F. KENNEDY - CUBAN MISSILE CRISIS - 1962 (continued)

Secretary of State William Rogers said later (1970): There is "the clear need to preserve the President's ability to act in emergencies in accordance with his constitutional responsibilities...I believe the framers of the Constitution intended decisions regarding the initiation of hostilities to be made jointly by the Congress and the President, except in emergency situations."

QUESTIONS:

What were the risks involved?

How important was public support? (Kennedy's address to the nation on October 22, 1962, was very effective in gaining public support.)

How important was timing? Should he have waited to allow Congress to act?

What if he had taken no action?

In an article from the SATURDAY REVIEW, May 3, 1969, entitled, "The Limits of Presidential Power," Arthur Schlesinger had this to say: "War and peace provide an Executive with unusual opportunities to shield and enhance his authority by wrapping the flag around himself, invoking patriotism and national unity, and claiming life-and-death crisis."

Do you agree?

Is this a way that presidents have increased their power?

Is it perhaps necessary at times for presidents to take action, rather than waiting for the much slower legislative process?

Do presidents ever infringe on Congress's power?

LYNDON JOHNSON - VIETNAM - 1968

The Gulf of Tonkin Resolution (1964) and the Vietcong attack on American advisors at Pleiku (1965) led to escalation of war.

LBJ saw the war in Vietnam as a struggle against international communist aggression, not as an internal political struggle. The State Department did not provide an accurate political analysis of the situation.

The President's advisors advocated a policy of escalation; LBJ, who was very assertive on domestic issues, was insecure about foreign policy.

The U.S. supported unpopular leaders in S. Vietnam. Errors in information, or misleading information, from Vietnam became the standard by which the administration took action.

CHECKS AND BALANCES

HISTORICAL EXAMPLES (continued)

LYNDON JOHNSON - VIETNAM - 1968 (continued)

LBJ feared failure.

Movement from bombing to increased troop requests occurred without approval of Congress.

Congress is dependent on the executive branch for information concerning foreign policy.

Use of executive privilege and intelligence operations kept information in the executive branch.

With the growing public opposition to the war, LBJ became increasingly defensive about his policies.

Congress took no action to stop escalation. Congress could have rejected funds for the Department of Defense. Congress could have passed a bill requiring the President to stop bombing.

Number of U.S. troops in South Vietnam:

1960 - 800
1964 - 23,000
1965 - 184,000
1967 - 500,000

Casualties - number of U.S. soldiers killed, wounded, and missing:

1965 - 2,500
1968 - 130,000

Lack of public support for his policies in Vietnam led to Johnson's decision not to run for President again in 1968.

QUESTIONS:

In this undeclared war, could Congress have put a check on escalation early, 1965 or 66?

Given the personality and character of Lyndon Johnson, and the information he had, could he have taken different action?

Why was the information so often incorrect?

Why did the U.S. feel compelled to support an unpopular, corrupt regime in South Vietnam?

Why was this a no-win situation for Johnson and, ultimately, for the U.S.?

What role did public opinion play?

CHECKS AND BALANCES

HISTORICAL EXAMPLES (continued)

RICHARD NIXON - WATERGATE - 1972-1974

November, 1968, Nixon defeated Hubert Humphrey for Presidency of U.S.

Wiretaps on Democratic party officials were made.

Domestic intelligence gathering instituted.

June 17 - A second burglary took place at the Democratic headquarters in the Watergate Complex; five men were arrested and charged. (The burglers had been hired by Committee to Re-elect the President.)

The President planned to impede investigation: June 19, 1972 - The Justice Department begins investigation. "Hush" money was paid to participants in break-in.

November 7, 1972 - Nixon and Agnew were re-elected in landslide (60% popular vote.)

February 7, 1973 - Senate voted to establish a Select Committee to conduct a full-scale investigation of the Watergate break-in.

March 12, 1973 - President Nixon cited executive privilege as the reason that members of his staff "normally shall... decline a request for a formal appearance before a committee of the Congress... Executive privilege will not be used as a shield to prevent embarrassing information from being made available but will be exercised only in those particular instances in which disclosure would harm the public interest."

May 17, 1973 - Televised Senate Watergate inquiry began. Chairman Sam Ervin stated that the "aim of the committee is to provide full and open public testimony in order that the nation can proceed toward the healing of the wounds that now afflict the body politic."

May 18, 1973 - President Nixon stated that he will neither appear before nor open his files to the Select Committee, on grounds of the doctrine of the separation of powers.

July 16, 1973 - Alexander Butterfield, Presidential aide, revealed to the Select Committee that President Nixon has taped all conversations in his office.

July 23, 1973 - Nixon refused to yield tapes to either Senate Committee or Special Prosecutor, invoking executive privilege.

September 3, 1973 - The U.S. Court of Appeals recommended that portions of tapes be turned over to the Special Prosecutor. October 20, 1973 - Special Prosecutor Cox is fired on orders of the President (by Robert Bork, Solicitor General, named acting Attorney General by President Nixon).

October 23, 1973 - Bills calling for impeachment proceedings are introduced in the House. November 1, 1973 - Leon Jaworski is appointed Special

CHECKS AND BALANCESD

HISTORICAL EXAMPLES (continued)

RICHARD NIXON - WATERGATE - 1972-1974 (continued)

Prosecutor.

November 17, 1973 - President Nixon stated on television "People have got to know whether or not their President is a crook. Well, I'm not a crook."

July, 1974 - The U.S. Supreme Court ruled that presidential tapes must be turned over to the Special Prosecutor.

July, 1974 - House Judiciary Committee passed articles of impeachment; charged the President with obstruction of justice and abuse of power.

August 8, 1974 - Richard Nixon announced his resignation from the Presidency.

September 8, 1974 - Nixon accepted a pardon from his successor, Gerald Ford.

QUESTIONS:

Does Watergate raise the question of personal interest versus national interest?

What does Watergate say about the power of the President versus Congress?

What is executive privilege and when should it be invoked?

What has been the effect of Watergate:

on the Presidency?

on the relationship between the branches of government?

on the impact of the press on government?

on the power of government?

on the attitude of the American people toward government and politics?

CHECKS AND BALANCES

HISTORICAL EXAMPLES (continued)

SUGGESTED ACTIVITIES:

1. Draw a cartoon of one of the events depicting an "imbalance" of power.

2. Choose one aspect of an event to write a paragraph or an essay (editorial) supporting or opposing the action.

3. Write newspaper headlines of one or several of the events.

4. Write or improvise an interview with one of the Presidents discussed.

5. Write an imaginary dialogue between two of the Presidents expressing their ideas about power.

6. Draw a cartoon showing the struggle for power between two branches of government in a given event.

7. Read at least two conflicting opinions about one of the events. Summarize each point of view. Which was more convincing and why?

8. Choose an assertive 20th century president to read more about. Report on him either orally or in writing. Try to answer these questions in your report:

    (a) What action, if any, did he initiate that raised questions about power?
    (b) How did he work with another branch of government?
    (c) What was his greatest success?
    (d) What was his greatest problem or failure?
    (e) How did his personality or character contribute to his success?; his failure?
    (f) What was his attitude toward power?
    (g) What restrictions or barriers on power did he experience from another branch of government?

9. Support or refute: "The U.S. President does not have sufficient power to conduct foreign policy."

10. Examine newspapers for examples of checks and balances at work. Read and summarize article(s).

CHECKS AND BALANCES

RONALD REAGAN - THE IRAN-CONTRA AFFAIR (1986-1987)

INTRODUCTION:

The question of which branch of government is in charge of the United States foreign policy has been a topic of recurring debate throughout our national history. Actually, the President and Congress have continually struggled for control because of the ambiguous way in which the Constitution divides the power. The President and his advisors traditionally have set policy, but Congress has the power to appropriate money, approve appointments, ratify treaties, and declare war.

The dominance of one branch over the other has swung back and forth, depending on the times and who was in office. In 1919, for example, Congress defied President Woodrow Wilson by refusing to ratify the Treaty of Versailles and join the League of Nations. However, after World War II, President Truman and Eisenhower managed the Cold War with little Congressional involvement. Then, by the mid 1970's, after Vietnam and Watergate, Congress reasserted its authority by passing the War Powers Act, which restricted Presidential commitment of U.S. troops abroad, and by imposing a veto over U.S. arms sales.

The Iran-Contra affair has raised these questions of balance of power once more. What is the proper role of the two branches concerning America's foreign policy? If the executive department acts with no checks, then there is the possibility of pursuing undisciplined, unquestioned policy involving unlimited covert operations unknown to anyone except a few "policy-makers." On the other hand, if Congress must pass on every action, there is the danger of inefficiency inhibiting any action. Such Congressional control would make it difficult for other countries to deal with the United States with any confidence, because of the fear that certain executive actions could be rescinded by Congress.

With the Iran-Contra hearings of the summer of '87 fresh in our minds, it is important, I think, for students to examine the events in light of the issue of balance of powers.

CHECKS AND BALANCES

Study Sheet # 8

RONALD REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

In January of 1985, members of the National Security Council made arrangements with Iranian officials to see them arms, including Hawk missiles, in return for the release of American hostages being held in Lebanon. The arms shipments were secretly carried out in August, September, and November of 1985. The profits from the sales of the arms to Iran were deposited in secret Swiss bank accounts. Part of the money, (at least four million dollars), was used to buy military supplies for the resistance army, the Contras, fighting the Sandinista government in Nicaragua.

Why was there Congressional or legal investigations into these activities? These actions were carried out without the knowledge or approval of any members of Congress; in fact, it appears, if the testimony of the various witnesses is to be believed, that only a handful of presidential advisors were aware of the plan and involved in its implementation. A "government within the government," as one Congressman called it, was making U.S. foreign policy.

What laws may have been broken or ignored? The Arms Export Control Act was apparently violated by the shipment of arms to Iran. The failure by the President to notify Congress of the covert action could be a violations of the Intelligence Oversight Act. The diversion of profits from the arms sales to support the Nicaraguan rebels may have been a misappropriation of federal funds and a violation of the Boland amendment of 1984, which restricted U.S. aid to the Contras. Finally, the question of conspiracy to defraud the government and obstruction of justice by trying to "cover up" the events is another offense in which some of the participants may have been involved.

Some of the conclusions from the testimony of various witnesses before Congressional investigating committee include the following:

The Iran-Contra deal was carried out by the National Security Council.
(Was this with the knowledge of President Reagan or not? He does not recall approving the deal.)
Robert McFarlane was the head of the National Security Council at that time.

Lt. Colonel Oliver North, an employee of the National Security Council, was actively involved in making arrangements for the Iran-Arms deal and the diversion of profits to the Contras in Nicaragua.
Statement: "I did a lot of things and I want to stand up and say that I'm proud of them."

CHECKS AND BALANCES

Study Sheet # 8 (continued)

RONALD REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

John Poindexter, as head of the National Security Council, approved the diversion of funds to the Contras; he says he did no seek Presidential approval.
Statement: "I made the decision. I was convinced that the President would, in the end, think it was a good idea. But I did not want him to be associated with the decision... Our objective here all along was to withhold information."

William Casey, as head of the Central Intelligence Agency, did know about the Iran-Contra arms deal, according to Lt. Col. Oliver North, and supported the diversion of funds to the Nicaraguan rebels. Casey denied to Congress any knowledge of either.
Statement: (December 1986) "I don't know anything about the diversion of funds."

Edwin Meese, Attorney General, stated he did not know of either the Iran-Arms deal or funds to the Contras until after the fact. North testified that Meese knew and allowed destruction of incriminating documents.
Question: Why did the Justice Department fail to complete a thorough investigation of the National Security Council in November, 1986, when the Iran-Contra affair was revealed?

George Shultz, Secretary of State, denied any detailed knowledge of either the Iran arms sales or the diversion of profits to the Contras.
Statement: "I don't think desirable ends justify means of lying, of deceiving, of doing things that are outside our constitutional process."

Many questions remain unanswered as a result of eleven weeks of Congressional investigation. The question of the role of the President in making foreign policy is unclear. Did Reagan allow a few appointees to make policy without his knowledge or approval? If so, why? What is the danger?

When covert operations are undertaken, should Congressional committees be informed? Why? If not, why not? Should unlawful orders from superiors be followed unquestioningly? Do Americans approve of this? (During the second week of North's testimony letters to Congress ran 20 to 1 in favor of North.)

CHECKS AND BALANCES

Study Sheet # 8 (continued)

RONALD REAGAN - IRAN-CONTRA AFFAIR (1986-87

Lt. Col. North's statement at the hearings: "I assumed that the President was aware of what I was doing and had, through my superiors, approved it."

Do the ends justify the means? If this is so, when is it so? What are the dangers of this philosophy?

What restrictions, if any, may Congress place on the President's ability to conduct foreign policy? How will that help or hinder our government's ability to act decisively and effectively in the future?

How did the Iran-Contra affair affect President Reagan's credibility?

Were the Iran-Contra Congressional hearings necessary? Did it cost the government too much in time and money? Did it demonstrate how checks and balances work in our democracy? Who benefitted?

CHECKS AND BALANCES

Study Sheet # 9

REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

EDITORIAL

Read the following editorial from THE ATLANTA CONSTITUTION, August 9, 1987, then answer the questions that follow:

MR. PRESIDENT, 'THE BUCK STOPS HERE'
By Gregory H. Nobles (Nobles is an associate professor of history in the School of Social Sciences at Georgia Tech.)

Where are the Founding Fathers when we need them? In this summer of the bicentennial of the U.S. Constitution, we find ourselves sinking deeper into a constitutional crisis that raises serious questions about the system of government they designed 200 year ago.

Above all, the Iran-Contra hearings have recently focused our attention on the role of the president in covert and apparently illegal operations. Lt. Col. Oliver North has testified that he only assumed that President Reagan knew and approved of the diversion of Iranian arms sales profits to the Nicaraguan contras. But barring clear evidence of direct presidential involvement, does North's assumption allow us to assume that the president should bear responsibility for the actions taken by North and the others involved in the deal? That seems to be the central constitutional issue that has yet to be resolved.

In the past, President Reagan has drawn our esteem for the Founding Fathers to set a standard of moral equivalency for the contras. Perhaps now we might also look to the founders to find a standard of presidential responsibility in the contra affair.

In 1787, the creators of the Constitution were deeply concerned and yet surprisingly uncertain about their plans for the presidency. The first proposal to create a single executive - that is, a one-person presidency - was met with what James Madison described as a "considerable pause." The delegates at the Constitutional Convention were not at all sure that the potential power of the executive office should be vested in one man. As Madison's fellow Virginian, Edmund Randolph warned, a single executive would become the "foetus of monarchy," a source of the kind of tyranny Americans had recently fought to escape.

In early stages of discussion, most delegatres seemed to favor a three-person executive committee. The division of the executive responsibilities among three men, some argued, would prevent any one man from accumulating and then abusing the powers of the office. Each member of the executive committee would serve as a check on the others.

Eventually, though, the framers decided on a single executive. One person, they reasoned, would not only be more energetic and independent in his actions but also would be more accountable for his actions. And for people who so greatly feared the abuse of power, accountability was critical.

As Alexander Hamilton explained in Federalist No. 70, "(O)ne of the weightiest objections to a plurality in the executive... is that it tends to conceal faults, and destroy responsibility... It often becomes impossible, amidst mutual accusations, to determine on whom the blame or punishment of a pernicious measure, or series of pernicious measures ought really to fall. It is shifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author."

The question of responsibility arose, Hamilton noted, not just when a president might commit an illegal or impeachable offense: "Man, in public trust, will much oftener

EDITORIAL

act in such a manner as to render him unworthy of being any longer trusted." Legal technicalities aside, maintaining the honor of the office was ultimately the most important reason for requiring personal responsibility in the president.

In a sense, Hamilton offers us a rather elegant 18th century version of Harry Truman's more succinct standard, "The buck stops here." But in this bicentennial summer, the words of one of the framers have a special resonance. While the Iran-contra hearings raise so many questions about assumed authority, plausible deniability and limited immunity, Hamilton reminds us of the importance of responsibility and trust. Our political system provides for a single executive, one person who must ultimately be held accountable for the actions of the government. Hamilton and the other framers expected that of the president 200 years ago, and we should expect no less today.

CHECKS AND BALANCES

Study Sheet # 9

REAGAN-IRAN-CONTRA AFFAIR (1986-1987)

EDITORIAL

QUESTIONS:

1. What is the main idea of Mr. Nobles' editorial?

   _____ (a) The Founding Fathers were more responsible than today's leaders?

   _____ (b) The executive branch is the most responsible branch of government?

   _____ (c) The President should accept responsibility for the actions of the executive branch.

   _____ (d) The idea of a single executive assures independence.

2. According to Mr. Nobles, what is the central constitutional issue that needs to be resolved concerning the Iran-Contra affair?

3. What concern about a single executive did Edmund Randolph express at the Constitutional convention of 1787?

4. What was Alexander Hamilton's argument in favor of a single executive?

CHECKS AND BALANCES

Study Sheet # 9

REAGAN-IRAN-CONTRA AFFAIR (1986-1987)

EDITORIAL

ANSWERS:

1. (c) is the best answer.

2. The question of presidential responsibility for the actions of those men who implemented foreign policy. Even though there is no evidence that the President gave his approval of the actions of North and the others, should the President bear responsibility?

3. Edmund Randolph expressed his fear of a monarchy developing from a single executive. He thought it would be a "source of tyranny."

4. Hamilton's argument in favor of a single executive is that it is the way to maintain personal responsibility; to hold one person accountable for his actions.

5. Answers should display an understanding of the issue of limited power and responsibility to the people.

CHECKS AND BALANCES

Study Sheet # 10

REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

PUBLIC OPINION (various newspaper articles)

GET OFF OLLIE'S BACK

Marietta - I was among the many Americans who, based largely on the media's biased coverage of the news, had determined that Lt. Col. Oliver North was a criminal before ever even hearing his side of the story. Having watched his testimony on television, I, like many Americans, found him to be a credible witness and a highly patriotic individual.

I find it interesting that, now that the American public has seen North and has, to a large extent, rallied behind him, journalists like Cynthia Tucker are trying to convince us that what we saw and heard with our own eyes and ears is not as valid as the press' second-hand, prejudiced interpretation of it. To suggest that North is a media star with no substance is ridiculous. And to insist that Americans embraced his image but none of his beliefs is ludicrous and insults the intelligence of the American people. The fact, is, while North did obviously make some mistakes, a large percentage of the American public agreed with many of his beliefs and saw in him a brave and heroic man.

In my opinion, the members of the press are only making themselves less credible by continuing to malign Col. North. I, for one, would suggest that the press follow the advice of North's attorney and "Get off his back!"

-Nancy Linn-Desmond

Providing military aid to an avowed enemy of the U.S. is treason. Providing arms to a nation that has been designated by our government as a state sponsor of terrorism is a violation of national policy. Colonel North has admitted engaging in these activities. What is all the discussion about?

- Ross Stagner
Southfield, Michigan

SOME KIND OF 'HERO'

Atlanta - Lessons learned from the Oliver North testimony:

1. Be handsome.
2. Have a good war record.
3. Look earnest.

Then just wrap yourself in the flag, and you can get away with most anything.

Lie, cheat, and steal, with $200,000 sticking out of your back pocket. Disregard the laws made by the people's elected lawmakers. Negotiate with hostage-takers. Sell taxpayer-bought, U.S. government weapons, with no plans to return the profits to the treasury. Lose a few million by giving out the wrong number to the secret Swiss bank account. Work to interfere in other countries' affairs, to include creating a war by paying mercenaries to overthrow by force an elected government with whom we still have diplomatic relations. When caught, shred documents to save the president's hide. State that you are innocent of lawbreaking, but take the Fifth Amendment when testifying.

The gullible American public loves to have a "hero."

- B.V. Boward

Oliver North displayed more cool, courage, candor and believability than the forked-tongue pork barrelers conducting the investigation. Yes, we need Congress to maintain democracy through our system of checks and balances, but each year their accountability seems to diminish further through hidden spending bills and amendments, rhetoric and vacillation. Their deception is no less than that practiced by Lt. Col. Oliver North, but it costs us much more in wasted tax dollars.

Kilburn L. Child
Westwood, Mass.

GIVE UP DEMOCRACY?

Olliemania is frightening psychological phenomenon. How long will this blot on America's good sense last?

It is true that our society feels the need to worship its own demigods-sports figures, TV evangelists, actors, actresses and persons holding other prominent positions. We fawn over them, lionize them and collect their autographs.

But people are talking about throwing away our democracy, getting rid of the Constitution, putting all power in the hands of the executive, as was the case in every dictatorship the world has ever known. How could such a travesty be considered?

People say that they have learned so much about the communist threat in Central America through these hearings. What have they learned? Did Lt. Col. Oliver North explain to the TV cameras that the people of Nicaragua had lived for over 40 years under a ruthless totalitarian regime supported by the United States with no trace of democracy? This makes the phrase so often repeated by the administration, "Return Nicaragua to democracy," as false as a three-dollar bill.

Witness after witness used President Reagan's phrase "freedom fighters" and "democratic resistance" until it rings in the ears of the American people . But the true freedom fighters are the peasants and soldiers of the duly elected Nicaraguan government trying to hold out against Contra-terrorist attacks on their medical clinics, schools, farm cooperatives and trageted professionals. To Ollie, "to save our lives" means to save American lives. To him all other lives are expendable.

Those who have eyes to read history, and ears to hear live witnesses who have returned from Nicaragua, let them learn the truth and then ignore false propaganda.

-Marvin G. Stone
Fletcher

TOO LITTLE ADVICE

I wish I could be non-partisan enough to give the present Congress credit for calling the public's attention to the fact it is trying to restore proper function between the executive and legislative branches of government even if in its own way.

However, the Democratic majority, with the aid of the liberal media, seems to be more interested in trying to discredit President Reagan's administration than anything else.

It's a lot easier to be a Monday-morning quarterback. Yet a good coach, while calling attention to mistakes, gives out help and instructions on how to overcome those mistakes for upcoming games. Has anything but finger-pointing happened yet?

-Gwinn Lyons
Linville Falls

The hearings go on: Your cover, "How Ollie stormed the Hill," (July 20) should have read, "How Ollie Snowed the American People.

- Linda Miller
Kingsport, Tenn.

CHECKS AND BALANCES

Study Sheet # 10 (continued)

REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

PUBLIC OPINION (various newspaper articles) (continued)

SEE NO EVIL, HEAR NO EVIL

Lt. Col. Oliver North should not be our "new national folk hero" (National Affairs, July 20.) The Iran-contra hearings are not a popularity poll. Their subject is deadly serious: the subversion of our constitutional system of government by the Reagan administration's secret and possibly illegal sale of arms to one of the world's foremost terrorist governments, the use of the profits to provide arms to the contras in violation of U.S. law and a persistant pattern of lying to and deceiving Congress and the American people about these actions.

-Steve Sullivan
Fairfax, Va.

Colonel North stood up for his convictions and won't apologize. In this era of moral grayness and congressional vacillation, America needs more men like him.

-Gary P. Bunker
Washington, D.C.

How sad that we in the United States are so hard up for heroes that we have to make one out of Oliver North, a man who lied and deceived so that he could arm mercenaries who are killing civilians in Nicaragua. God help us.

- Sister Mary Rose Christy
Burlingame, Calif.

Oliver North has captured America's admiration with his honesty, commitment and willingness to accept responsibility for his actions, be they good, bad or ugly. I salute him. At the same time I can't help noticing how sharply his attitude contrasts with the president's. Ronald Reagan seems to prefer the see-no-evil, hear-no-evil approach to leadership.

- Michael E. Filler
Feeding Hills, Mass.

This administration has used military officers to do the dirty work for the White House. Nixon used "plumbers"; Reagan, windup toy soldiers. But the end result is the same. Again we have men who stand before the American people and swear to tell the truth, with two fingers crossed behind their backs. North violated his oath as an officer and is proud of it. In short, he broke the law. The Marine Corps has no alternative but to court-martial him.

-Maj. Mark A. Smith (Ret.)
Washington, D.C.

****

I and many others have been sickened by the obvious vested interest of the Congress in destroying the President and shattering his "Teflon." I would remind those taking the potshots that Mr. Reagan was re-elected by an enormous mandate and that Congress is viewed by a great many Americans as being a consortium of self-serving, jealous, egocentrics, interested not nearly so much in doing what is best for our nation as in perpetuating themselves in office.

- Patricia S. Broderick
Troutman, NC

CHECKS AND BALANCES

Study Sheet # 10 (continued)

REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

PUBLIC OPINION (various newspaper articles) (continued)

I wholeheartedly support aid for the Contras. Nevertheless, I am saddened and sickened by the mindless public adoration of Oliver North. He lied to Congress, shredded documents, falsified bills to make it appear that he prepaid the security system in his home, took the Fifth Amendment when first asked to testify before the Joint House-Senate Committee and demanded--and got-- immunity from prosecution before he would testify at all. North emerged as a modern Machiavelli, a man who willingly used any means to achieve his aims.

With thinly veiled arrogance and contempt, North made fools of the committee. Worse still, most of the public swallowed whole his Academy Award performance, convinced that this melodramatic combination of Rambo, John Wayne and James Bond was the epitome of injured innocence.

There are two chilling possibilities--that North lied to Congress once again, knowing that the shredded documents would make his prosecution impossible, or that North told the truth knowing immunity from prosecution would keep him from ever setting foot inside a courtroom.

- Lionel Lokos
Ocala, Fla.

ENOUGH OF HEARINGS

Atlanta - For months, the Democrats on the committee investigating the Iran-contra affair have said that testimony of their key witnesses, Lt. Col. Oliver North and Admiral John Poindexter, would provide the "smoking gun" implicating President Reagan in the diversion of arms sale profits to the contras.

On the contrary, both North and Poindexter flatly denied any presidential involvement in the affair. This must come as something of a disappointment to those Democrats who were all too ready to tarnish the success of the Reagan presidency.

I believe the people of Georgia and this country have had enough, and the Iran-contra affair should be put to rest. It's time for the Democrats to get back to work and stick to what they're best at: raising taxes and spending money.

- John M. Stuckey, Jr.
Chairman
Georgia Republican Party

CHECKS AND BALANCES

Study Sheet # 10

REAGAN - IRAN-CONTRA AFFAIR (1986-1987)

PUBLIC OPINION

QUESTIONS:

1. After reading the letters to newspapers and magazines from various people in the United States concerning the Iran-Contra hearings, list a least three arguments opposing the hearings and favoring Lt. Col. Oliver North and the actions of the National Security Council.

2. Now list at least three arguments opposing the actions of Lt. Col. North and the National Security Council.

3. In what way were the Congressional hearings about the Iran-Contra affair an exercise in democracy?

4. How do the hearings illustrate the idea of "balance of power?"

5. Is the idea of balance of power still important in the U.S. or does it get in the way of effective policy?

   Explain your answer with reference to the Constitution and historical and/or current events.

MAGAZINE AND JOURNALS

DEPARTMENT OF STATE BULLETIN, Vol. 87, Number 2122, May 1987.

NEWSWEEK, July 20, Aug. 3, Aug. 10, 1987.

POLITICAL SCIENCE QUARTERLY, D. Caraley, Editor, Vol. 102, Number 1, Spring 1987.

THE WORLD TODAY, Vol. 43, Number 4, April 1987.

TIME, July 13, Aug. 3, Aug. 17, 1987

U. S. NEWS AND WORLD REPORT, July 20, Aug. 13, Aug. 17, 1987.

REFERENCES

Dobell, Byron, ed.: A SENSE OF HISTORY, American Heritage, Houghton Mifflin, New York, 1985.

Garraty, John A., ed.: QUARRELS THAT HAVE SHAPED THE CONSTITUTION, Harper and Row, New York, 1964.

Gold, Gerald, ed.: THE WHITE HOUSE TRANSCRIPTS, Viking Press, New York, 1974.

Kammen, Michael, ed.: THE ORIGINS OF THE AMERICAN CONSTITUTION - A DOCUMENTARY HISTORY, Penquin Books, New York, 1986.

Kearns, Doris: LYNDON JOHNSON AND THE AMERICAN DREAM, New American Library, New York, 1976.

Lockhart, William, Yale Kamisar, and Jesse Choper, eds.: THE AMERICAN CONSTITUTION - CASES AND MATERIALS, West Publishing Co., St. Paul, 1980.

Padover, Saul K.: THE FORGING OF AMERICAN FEDERALISM - SELECTED WRITINGS OF JAMES MADISON, Harper and Row, New York, 1965.

Patrick, John J. and Richard C. Remy: LESSONS ON THE CONSTITUTION, Social Science Consortium, Inc., Washington, D. C., 1986.

Pomper, Gerald: THE PERFORMANCE OF AMERICAN GOVERNMENT - CHECKS AND MINUSES, The Free Press, New York, 1972.

Peters, William: A MORE PERFECT UNION, Crown Publishers, New York, 1987.

Reveley, W. Taylor: WAR POWERS OF THE PRESIDENT AND CONGRESS, University Press of Virginia, Charlottesville, 1981.

Shapiro, Martin and Rocco Tresolini: AMERICAN CONSTITUTIONAL LAW, Macmillan Publishing Company, Inc. New York, 1975.

Schlesinger, Arthur M., Jr.: THE AGE OF JACKSON, New American Library, New York, 1945.

Stephens, Otis H. and Gregory J. Rathjen: THE SUPREME COURT AND THE ALLOCATION OF CONSTITUTIONAL POWER, W. H. Freeman and Company, San Francisco, 1980.

Swisher, Carl Brent: THE GROWTH OF CONSTITUTIONAL POWER IN THE U.S., University of Chicago Press, Chicago, 1946.

Taylor, George Rogers: JACKSON VERSUS BIDDLE - THE STRUGGLE OVER THE SECOND BANK OF THE UNITED STATES, D. C. Heath and Company, Boston, 1949.

Van Doren, Carl: THE GREAT REHEARSAL, The Viking Press, New York, 1948.

Vile, M. J. C. : CONSTITUTIONALISM AND THE SEPARATION OF POWERS, Clarendon Press, Oxford, 1967.

White, Theodore: BREACH OF FAITH - THE FALL OF RICHARD NIXON, Atheneum Publishing Co., New York, 1975.

CHECKS AND BALANCES

WORD-SEARCH

Words may go ← → ↑ ↓

GOVERN	SUPREME	VETO
OVERRIDE	PRESIDENT	APPOINT
U.S.	APPROVE	CONGRESS
BALANCE	LEGISLATE	JUDICIAL REVIEW
WAR POWERS	ARMY	CHECKS
INVESTIGATE	TREATY	CIA
IMPEACH	REPUBLIC	NSC
RATIFY	LAWS	VOTE
COURT	LINCOLN	

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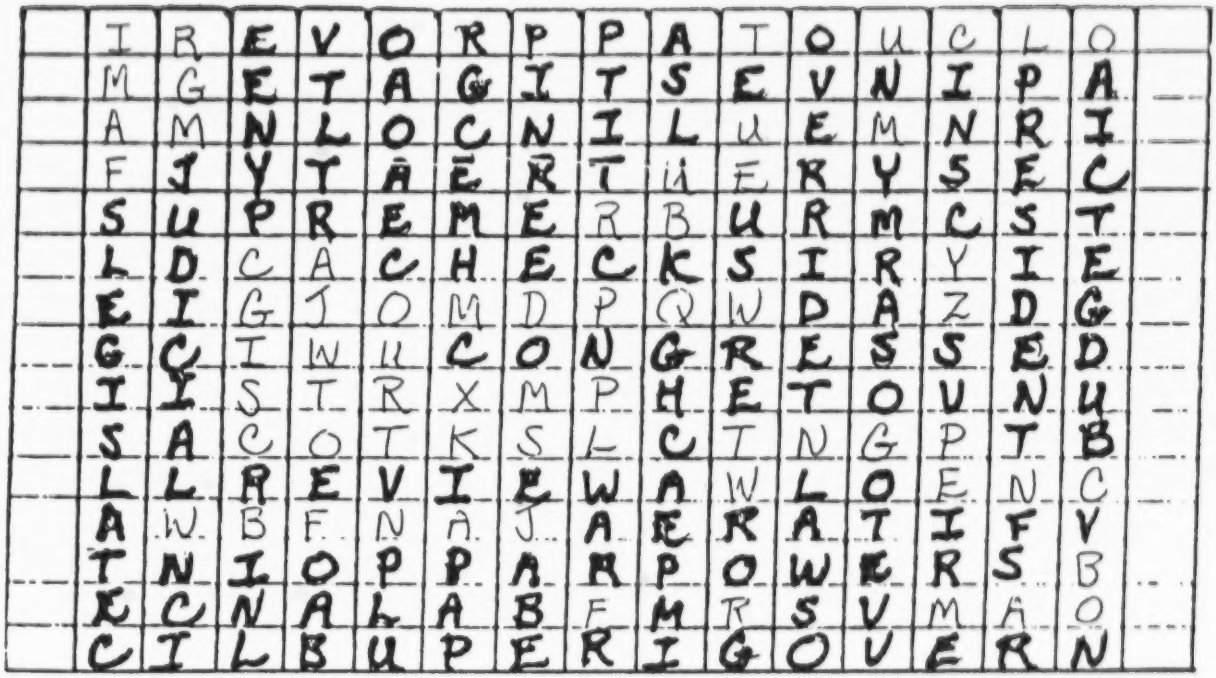
KEY - WORD SEARCH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K C N A L A B F M R S V M A O
C I L B U P E R I G O V E R N

CHECKS AND BALANCES CROSSWORD CLUES

ACROSS:

1. "_____ CORRUPTS: ABSOLUTE _____ CORRUPTS ABSOLUTELY."
3. TOOK INITIATIVE AGAINST SOVIET MISSILES BOUND FOR CUBA.
4. "_____ THE PEOPLE, BY THE PEOPLE."
6. SAID "IF MEN WERE ANGELS, NO GOVERNMENT WOULD BE NECESSARY." (FATHER OF THE CONSTITUTION)
11. THE EXECUTIVE DEPARTMENT DOES NOT WANT CONGRESS TO _____ INTO COVERT OPERATIONS.
13. CONGRESS MAY _____ THE PRESIDENT'S VETO WITH A 2/3 MAJORITY.
14. THIS ESTABLISHED JUDICIAL REVIEW.
18. THIS NEW DEAL PROGRAM WAS DECLARED UNCONSTITUTIONAL.
19. THE PRESIDENT CAN _____ WITH SENATE APPROVAL.
22. _____AND BALANCES.
23. THE U. S. CONSTITUTION _____POWER.
25. F. ROOSEVELT PROPOSED THE _____ DEAL.
26. A _____ IS MADE WITH SENATE APPROVAL.
29. PRESIDENT WILSON SENT MARINES TO THIS ISLAND IN 1915.
30. ACCORDING TO ARTICLE I, SECTION 8, CLAUSE 18, CONGRESS CAN PASS LAWS THAT ARE "_____ AND PROPER."
32. PRESIDENT ELECTED BY THE HOUSE OF REPRESENTATIVES IN 1824.
33. A TREATY CANNOT GO INTO EFFECT WITHOUT THIS GROUP'S APPROVAL.
34. CONGRESS CAN MAKE THESE.
38. HE SUSPENDED THE RIGHT TO WRITS OF HABEAS CORPUS DURING WAR TIME.
39. THIS GROUP HAS THE POWER TO IMPEACH.
40. HE ALLOWED THE ESCALATION OF AN UNPOPULAR SOUTHEAST ASIAN WAR.
41. HE VETOED THE U.S. BANK CHARTER.
43. THE _____ SYSTEM INTERPRETS THE LAWS.
44. AN _____ OF PRESIDENTIAL PREROGATIVE IS PROPOSING LEGISLATION.
45. THIS WWI TREATY WAS NOT APPROVED BY THE U.S. SENATE.
49. _____OPERATIONS ARE CONDUCTED BY THE CIA.
51. THIS RIGHT SERVES AS A CHECK ON POWER IN A REPUBLIC.
53. AMENDMENTS AND INTERPRETATION_____THE CONSTITUTION.
54. TRUMAN'S NATIONALIZATION OF YOUNGSTOWN_____COMPANY WAS DECLARED UNCONSTITUTIONAL.
55. DURING WAR-TIME THERE MAY BE SOME_____OF CIVIL RIGHTS
58. WE CAN BE CERTAIN DEBATES ABOUT THE CONSTITUTION WILL CONTINUE _____.
59. MOST 20th CENTURY U. S. PRESIDENTS HAVE BEEN ASSERTIVE, NOT _____.
60. IF YOU FINISH THIS PUZZLE, SMILE, DON'T _____.

CHECKS AND BALANCES CROSSWORD CLUES

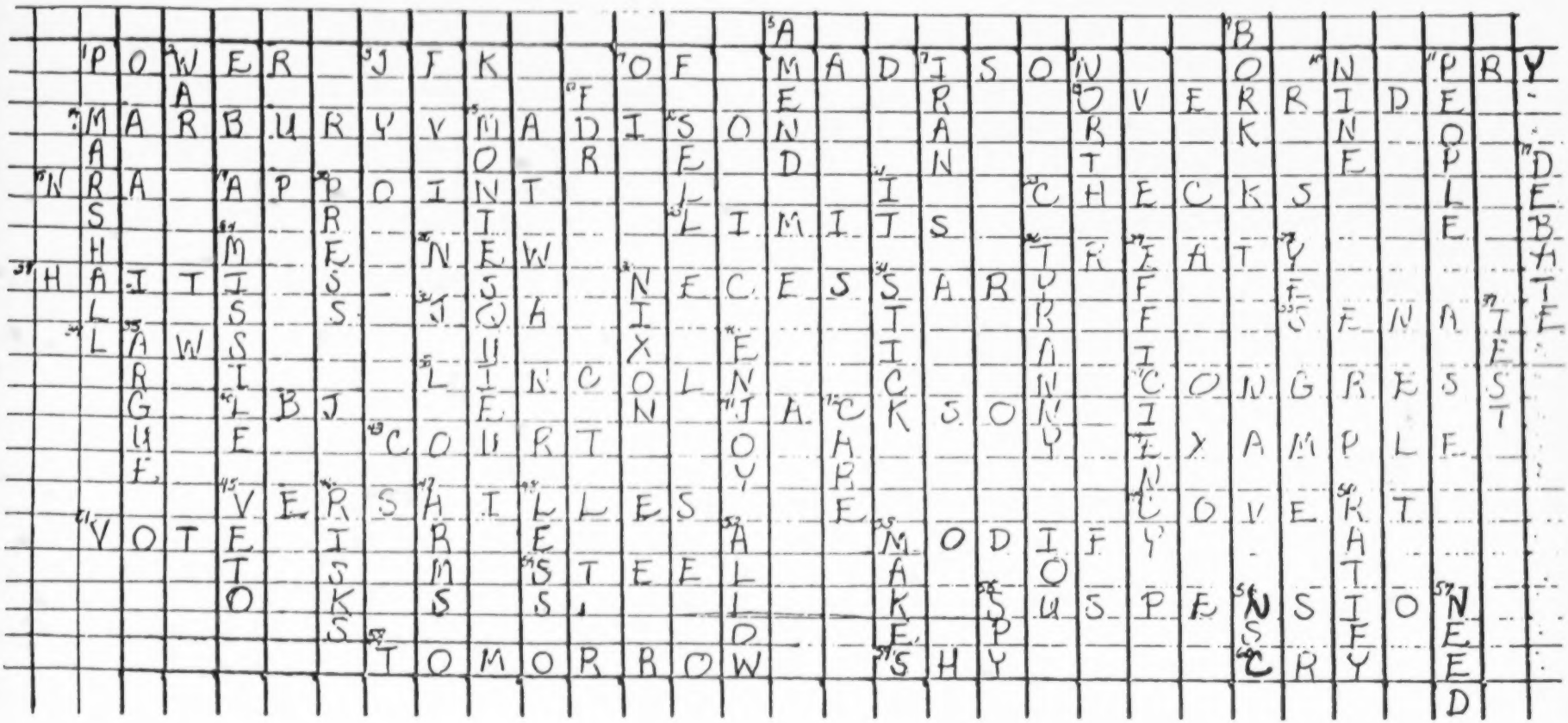
DOWN:

2. ARTICLE I GIVES CONGRESS THE POWER TO DECLARE IT.
5. 3/4 OF THE STATES ARE REQUIRED TO _____THE CONSTITUTION.
7. AN ARMS DEAL WITH THIS NATION CAUSED PROBLEMS FOR PRESIDENT REAGAN.
8. THIS LT. COLONEL ARRANGED THE ARMS DEAL.
9. THE SENATE WILL DEBATE THIS MAN'S NOMINATION TO THE SUPREME COURT.
10. THE U.S. SUPREME COURT HAS _____ MEMBERS.
11. THE BASIS OF THE U.S. GOVERNMENT IS THE _____.
12. PRESIDENT THAT TRIED TO "PACK THE COURT".
14. CHIEF JUSTICE WHO RULED THAT THE SUPREME COURT COULD REVIEW LAWS.
15. THE IDEAS OF THIS FRENCHMAN WERE ATTRACTIVE TO THE CONSTITUTION FRAMERS.
17. MOST PROPOSED LAWS ARE OPEN TO _____.
20. FREEDOM OF THE ____ PROVIDES A CHECK ON GOVERNMENT POWER.
21. THIRD PERSON PRONOUN.
24. THE PRESIDENT TOOK A RISK DURING THE CUBAN _____CRISIS IN 1962.
26. THE CHECKS AND BALANCES IN THE U.S. GOVERNMENT PROTECT AGAINST _____.
27. _____IS SOMETIMES SACRIFICED FOR OPENNESS IN OUR GOVERNMENT.
28. WITH NO VETO THE PRESIDENT VOTES ____ ON A BILL.
30. WITHHOLDING INFORMATION AND OBSTRUCTION OF JUSTICE LED TO HIS RESIGNATION.
31. TEDDY ROOSEVELT ON FOREIGN AFFAIRS, "SPEAK SOFTLY AND CARRY A BIG _____."
35. POLITICIANS OFTEN _____OVER ISSUES.
36. AMERICANS ____ MANY FREEDOMS.
37. THE U.S. CONSTITUTION HAS STOOD THE _____ OF TIME.
42. GOOD CITIZENS _____ ABOUT WHAT THEIR GOVERNMENT OFFICIALS DO.
45. A PRESIDENT'S POWER OVER LAWS.
46. FOR POLITICIANS TAKING STANDS ON ISSUES MEANS TAKING _____.
47. SECRET _____ NEGOTIATIONS LED TO CONGRESSIONAL INVESTIGATION.
48. CHECKS AND BALANCES MEAN _____ POWER, NOT MORE.
50. FOR TREATIES OR NOMINATIONS BY THE PRESIDENT TO TAKE EFFECT, THE SENATE MUST _____ THEM.
52. THE CONSTITUTION DOES NOT ____ THE PRESIDENT TO MAKE LAWS.
53. THE CONGRESS _____ LAWS.
55. THE CIA IS RESPONSIBLE FOR _____ OPERATIONS.
56. THIS WHITE HOUSE ORGANIZATION ADVISES THE PRESIDENT ABOUT OTHER COUNTRIES.
57. DO WE _____ ANOTHER AMENDMENT TO THE CONSTITUTION?

79

66

67


POWER
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GRATIFY
DENIAL
PEOPLE
NEED
TEST
DEBATE